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ABSTRACT

The Impact Aid program provides federal assistance to local school districts that have lost revenue due to tax-exempt federal property, or have experienced increased expenditures due to enrollment of federally connected children, including children living on Indian lands. This pamphlet explains the rights and responsibilities of schools, tribes, and parents in developing and implementing policies and procedures to insure that Indian children participate equally in school programs supported by Impact Aid funds. The responsibilities of local educational agencies (LEAs) to Indian communities are discussed, focusing on the development and implementation of Indian policies and procedures (IPPs) designed to improve communication and cooperation between the LEA and the Indian community. Two changes in the reauthorized Impact Aid Program (Title VIII, Elementary and Secondary Education Act of 1965, as amended) are highlighted and explained: (1) maintenance of IPP records at the local level, and (2) waivers of the IPP requirement. Tribal and parental responsibilities are also listed. Minimum standards for LEA IPPs are noted, with examples. Complaint and hearing procedures are briefly discussed. An appendix lists the definition of Indian lands relative to Impact Aid legislation. (SAS)

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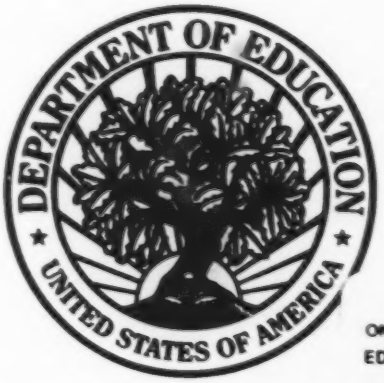
INDIAN COMMUNITY PARTICIPATION IN THE IMPACT AID PROGRAM



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INDIAN COMMUNITY PARTICIPATION IN THE IMPACT AID PROGRAM

Special Impact Aid Provisions
for Local Education Agencies
that Claim Children
Residing on Indian Lands

(Title VIII , Elementary and Secondary Education Act
of 1965, as amended)

JULY 1997

U.S. DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Impact Aid Program offers a unique opportunity for local educational agencies, tribes, and parents of Indian children to work together to improve the educational opportunities available to Indian children. This pamphlet explains the rights and responsibilities of schools, parents, and tribes in developing and implementing policies and procedures to ensure that Indian children participate equally with other children in school programs supported by Impact Aid funds.

We want to highlight two changes in the reauthorized Impact Aid Program that are significant to the Indian community and the schools that serve Indian children. First, local educational agencies must now **maintain records** documenting how they are implementing Indian policies and procedures, and make those records available to the Impact Aid Program for review. In addition, in certain limited circumstances a local educational agency may receive a **waiver** of the Indian policies and procedures requirements. These changes are discussed in greater detail in this pamphlet.

Local educational agencies and the Indian community have much to gain by working together to support the education of Indian children. The Impact Aid Program is prepared to assist this effort by providing technical assistance in the development of Indian policies and procedures and facilitating communication between schools and communities. We look forward to working with you now and in the future.

Catherine Schagh

Catherine Schagh, Director
Impact Aid Program

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THE IMPACT AID PROGRAM

Many local school districts across the United States include within their boundaries parcels of land that are owned by the Federal Government or that have been removed from the local tax rolls by the Federal Government, including Indian lands. These school districts face special challenges — they must provide a quality education to the children living on the Indian and other Federal lands, while sometimes operating with less local revenue than is available to other school districts, because the Federal property is exempt from local property taxes.

Since 1950, Congress has provided financial assistance to these local school districts through the Impact Aid Program. Impact Aid was designed to assist local school districts that have lost property tax revenue due to the presence of tax-exempt Federal property, or that have experienced increased expenditures due to the enrollment of federally connected children, including children living on Indian lands. The Impact Aid law (now Title VIII of the Elementary and Secondary Education Act of 1965 (ESEA)) provides assistance to local school districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other Federal properties and, to a lesser extent, for children who have parents in the uniformed services or employed on eligible Federal properties who do not live on Federal property.

Impact Aid is often an extremely important source of revenue for school districts that serve children living on Indian reservations and other Indian lands, because these districts frequently have a very small local property tax base from which to raise revenue for schools. School districts may use their Impact Aid payments for whatever expenses they choose, such as teacher salaries, utilities, facilities maintenance, and supplies, in accordance with their local and state requirements. Also, there is no prohibition from using Impact Aid for capital improvements. The only exceptions are those supplemental Impact Aid payments made for children with disabilities, which must be used for the increased costs of educating these children.

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The Impact Aid law includes certain provisions designed to benefit the Indian communities served by school districts that receive Impact Aid, by ensuring the equal participation of Indian children in the education programs of their schools and encouraging communication between the schools and the Indian community. This pamphlet explains the responsibilities of both the local school districts and the Indian communities in fully realizing the improved educational opportunities Impact Aid can provide for Indian children.

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IMPACT AID AND INDIAN CHILDREN

A school district or local educational agency (LEA) can receive a larger Impact Aid payment if some or all of the children claimed on its application live on Indian lands. The LEA claiming Indian lands children must ensure that the property is eligible under the definition of Federal property specified in the law (see Appendix). Impact Aid is provided for general operating expenses and is not required to be spent exclusively for Indian children or for special programs for Indian children.

The LEA claiming children who live on Indian lands must submit with its Impact Aid application each year a set of **Indian policies and procedures (IPPs)** designed to improve communication and cooperation between the LEA and the Indian community and to ensure the equal participation of Indian children in the education program and activities of the LEA. In certain limited circumstances, the LEA may receive a waiver from this requirement from the local tribe(s). Minimum standards for the IPPs are described on pages 5 and 6.

The IPP requirement is more than just extra paperwork. The process of developing and implementing the IPPs is meant to enhance cooperation genuinely between LEAs and the Indian community. Impact Aid Program staff are available to provide technical assistance to LEAs that need help in developing IPPs, and to Indian tribes and parents seeking to exercise their rights under the program. Impact Aid Program staff also periodically review each LEA's documentation of its IPP compliance activities.

The Program's goal is to help resolve informally most disagreements that may arise during the development and implementation of IPPs. However, a tribe that has children in an LEA may file a formal complaint with the Department of Education against the LEA for failure to comply with the IPP requirements in the law or failure to implement its IPPs. Under the formal complaint procedure, both the LEA and the Indian community have an opportunity to a hearing by a hearing examiner. The Department makes a final written determination based on the findings and recommendations of the hearing examiner.

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The Department is also authorized to enforce IPP compliance through the withholding of funds or other appropriate action. In such a rare occurrence, the local educational agency and the Indian community would have an opportunity to express their views prior to any final enforcement action.

The specific responsibilities of LEAs and the Indian community are described in detail on the following pages.

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LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES TO THE INDIAN COMMUNITY

The law specifically requires LEAs that receive Impact Aid payments for children living on Indian lands to consult with tribal officials and parents of Indian children about the education program of the school district. LEAs have these responsibilities:

- Disseminate the Impact Aid Program application to tribal officials and Indian parents.
- Disseminate information on any education programs that the LEA plans to initiate or eliminate and any evaluations of education programs supported by Impact Aid funds.
- Consult and involve tribal officials and Indian parents in the planning and development of education programs and activities supported by Impact Aid funds.
- Provide an opportunity for tribal officials and Indian parents to comment on the participation of Indian children on an equal basis with all other children in the school programs and activities supported by Impact Aid funds.
- Modify the education program, if necessary, to ensure the equal participation of Indian children.
- Afford tribal officials and parents of Indian children an opportunity to make recommendations concerning the needs of their children and how the schools can help their children benefit from the education programs assisted with Impact Aid funds.
- Provide an opportunity for tribal officials and Indian parents to present their overall views on the education program and the degree of parental participation allowed.

Indian Policies and Procedures (IPPs) — The law requires that LEAs claiming children residing on Indian lands establish

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written policies and procedures (IPPs) describing how they will meet these responsibilities to the Indian community. The IPPs must be approved by the governing board of the LEA and meet minimum standards described elsewhere in this pamphlet. The LEA must submit a copy of the IPPs with its annual application for Impact Aid funds. The approved IPPs should be regularly reviewed and modified as appropriate. LEAs must also maintain records that demonstrate compliance with the IPPs and make those records available for Impact Aid Program staff to review.

Waiver Provision — An LEA that works very closely with the local Indian community and communicates regularly with tribal authorities and parents may not need to establish IPPs. For example, in a school district that is comprised entirely of Indian children, with a school board made up of Indian parents and other members of the Indian community, the establishment of written IPPs may be unnecessary. In such a situation, the tribal authorities and parents may certify through a written statement from the tribe(s) that the LEA does not need to prepare IPPs because the tribe(s) is satisfied with the LEA's provision of educational services to Indian children. The LEA must attach a copy of the tribal statement(s) to the Impact Aid application in lieu of the IPPs.

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TRIBAL AND PARENTAL RESPONSIBILITIES

Tribal organizations and parents of Indian children residing on Indian lands also have specific responsibilities to local educational agencies (LEAs) that receive Impact Aid Program funds. Specifically, tribal members and parents have these responsibilities:

- Receive and review copies of the Impact Aid application, any evaluations of education programs assisted with Impact Aid Program funds, and any plans for education programs that the LEA intends to initiate or eliminate.
- Present their views to the LEA on the general education program of the LEA.
- Consult actively and regularly with the LEA in planning and developing education programs assisted by Impact Aid funds.
- Assess the extent to which Indian children participate on an equal basis with all other children in the education programs and activities of the LEA, and comment on that participation.
- Make recommendations concerning the needs of the Indian children and how they can benefit from the education programs assisted with Impact Aid funds.
- Assess the effectiveness of their input regarding the participation of Indian children in the LEA's education programs and activities and the development and implementation of the IPPs, and share the results of that assessment with the LEA.

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IMPACT AID PROGRAM MINIMUM STANDARDS FOR LEA INDIAN POLICIES AND PROCEDURES (IPPS)
(34 CFR 222.94)

The Impact Aid Program will determine if an LEA is in compliance with the provisions of the law concerning consultation with the Indian community by periodically reviewing the LEA's documentation of its activities. The following are minimum standards for what should be included in Indian Policies and Procedures (IPPs) submitted with an LEA's annual Impact Aid application.

1. The IPPs must specify how the LEA will **disseminate in a timely manner**, the following materials to tribal officials and parents: the Impact Aid application; evaluations of education programs assisted with Impact Aid funds; and plans for education programs the LEA intends to initiate or eliminate.

Example: The LEA mails copies of these materials to the tribal officials and Indian parents.

2. The LEA's IPPs must describe how the LEA will **gather information concerning Indian views**, including those regarding the frequency, location, and time of meetings.

Example: The LEA provides that a school board meeting will be held, after the materials have been disseminated, for the discussion of this issue.

3. The IPPs must specify how the LEA will **notify the Indian parents and tribes of the locations and times of meetings.**

Example: The LEA provides the location and time of upcoming school board meeting in the local newspaper and in newsletters distributed to students to take home.

4. The IPPs must describe how the LEA will **give tribal officials and parents of Indian children an opportunity to comment** on the participation of Indian children on an equal basis with all other children in the education programs and activities of the LEA.

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Example: The LEA will conduct a school board meeting that will focus on this issue or places this issue on a school board meeting agenda.

5. The IPPs must specify how the LEA will **assess the extent to which Indian children participate on an equal basis** with non-Indian children in the education program.

Example: LEA officials will review school data and comments from tribal officials and parents to assess the extent of Indian children's participation in the education program on an equal basis with all other children educated by the LEA.

6. **The IPPs must specify procedures for modifying the LEA's educational program, when necessary, to ensure that Indian children participate on an equal basis.**

Example: The LEA establishes a task force to prepare options for modifying the education program to ensure equal participation in the program by Indian children.

7. The IPPs must describe how the LEA will **regularly consult and involve tribal officials and parents in the planning and development of education programs and activities** assisted with Impact Aid funds.

Example: The LEA provides for a school board meeting to discuss this matter or places this item on the agenda of a school board meeting, or the LEA establishes a parent-teacher task force to review the matter and report its findings at a school board meeting.

8. The IPPs must contain specific **procedures for modifying the LEA's policies and procedures based on tribes' or parents' assessment** of the effectiveness of their input regarding the participation of Indian children in the LEA's education programs and activities.

Example: A task force or ad hoc committee that is representative of the Indian community may review the Indian input, the opportunity for input, and the LEA's response to the comments submitted by the tribal officials and parents recommending changes in the LEA's policies and procedures, and recommend modification of the policies and procedures to respond to the Indian community input. The LEA may provide for a school board meeting to modify the IPPs in response to this assessment.

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IPP COMPLAINT AND HEARING PROCEDURES

Cooperative efforts and communication among LEAs, tribal officials, and Indian parents are essential to fulfilling the intent of the law to ensure that Indian children fully benefit from the educational programs supported by Impact Aid funds. Impact Aid Program staff are prepared to provide assistance to LEAs and the Indian community in developing IPPs and helping to resolve problems related to their implementation as they arise. Most issues concerning IPPs can be resolved informally.

If a tribe continues to be dissatisfied with an LEA's development and implementation of IPPs after working informally to resolve differences, the tribe may file a written complaint about a local educational agency's compliance with the IPP requirements. Written complaints filed with the Assistant Secretary for Elementary and Secondary Education will be addressed through a hearing before an administrative law judge. Both the complaining tribe, or its designee, and the LEA will be allowed to present evidence regarding the complaint. The Assistant Secretary will make a final decision based on the recommendation of the administrative law judge and suggest appropriate remedial actions.

Additional information about the formal complaint procedure is available from the Impact Aid Program upon request.

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APPENDIX
Definition of Indian Lands

The following property is eligible as Indian lands under the Impact Aid law and regulations:

(1) Real property that is tax-exempt due to Federal law, agreement, or policy, AND that is held in trust by the United States for individual Indians or Indian tribes ("trust" property)

(2) Real property that is tax-exempt due to Federal law, agreement, or policy AND that is held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States ("restricted" property)

(3) Real property that is tax-exempt due to Federal law, agreement, or policy AND that is public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes

FOR ALASKA ONLY, the following property also is eligible as Indian lands:

(4) Real property that is tax-exempt due to Federal law, agreement, or policy, AND that was conveyed under the Alaska Native Claims Settlement Act (ANCSA) to a Native individual, Native group, corporation organized under section 1613 (h)(3) of ANCSA, or village or Regional Corporation, as those terms are defined in ANCSA ("ANCSA" property)

FOR OKLAHOMA ONLY, the following property also is eligible as Indian lands:

(5) Real property that is owned by an Indian housing authority and used for low- income housing AND at any time was designated by treaty as tribal land or satisfied the definition of Federal property under section 403(1)(A) of P.L. 81-874

***Note**: Low-rent housing is eligible as Indian lands, rather than as regular low-rent housing, if that low-rent housing is located on property that qualifies under one of the above definitions, or on land that met one of those descriptions immediately before its use for low-rent housing.*

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FOR MORE INFORMATION CONTACT:

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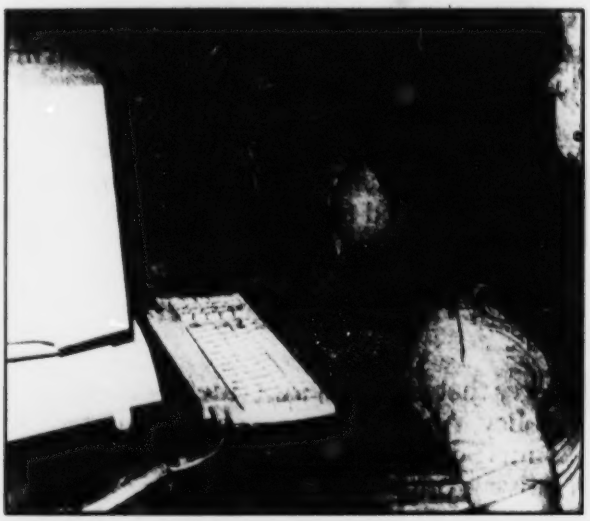

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